

UNITED STATES OF AMERICA ) Criminal No: CR-H-94-58  
 )  
 v. )  
 )  
 GLAZIER FOODS CO., ) [filed 4/26/94]  
 )  
 Defendant. )

The United States of America, through its attorneys,  
hereby responds to Defendant Glazier Foods Company's Motion for  
Production of Jencks Material with Legal Authorities in Support  
(hereinafter "Motion").

The Jencks Act does not otherwise contemplate the early disclosure sought by Defendant. United States v. Lowenberg, 853 F.2d 295, 300 (5th Cir. 1988). However, to avoid delay and ensure ample opportunity for use, the United States will produce

to Defendant any Jencks material not already produced three days before trial, just as it did in the Johnson trial.

Where Brady material is contained within a witness's statement, Jencks timing controls disclosure. United States v. Scott, 524 F.2d 465, 467-68 (5th Cir. 1975) ("the rule announced in Brady is not a pretrial remedy and was not intended to override the mandate of the Jencks Act"). If any Brady material included within Jencks Act statements exists, the government will produce it three days prior to trial, if it has not already been produced.

Because the United States has effectively turned over the great majority of Jencks statements to Defendant and offered to turn over any other Jencks material not received before the previous trial three days prior to trial, Defendant's Motion should be denied.

Respectfully submitted,

"/s/"  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Government's Response to Defendant Glazier Foods Company's Motion for Production of Jencks Material and proposed order was sent via Certified Mail-Return Receipt Requested this 25th day of April, 1994, to:

Joel M. Androphy, Esq.  
Berg & Androphy  
3704 Travis Street  
Houston, Texas 77002

\_\_\_\_\_  
"/s/"  
JANE E. PHILLIPS  
Attorney

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

|                          |   |                         |
|--------------------------|---|-------------------------|
| UNITED STATES OF AMERICA | ) | Criminal No: CR-H-94-58 |
|                          | ) |                         |
| v.                       | ) |                         |
|                          | ) |                         |
| GLAZIER FOODS CO.,       | ) |                         |
|                          | ) |                         |
| Defendant.               | ) |                         |

**O R D E R**

Upon consideration of the Defendant Glazier Foods  
Company's Motion for Production of Jencks Materials and the  
Government's Response,

The Defendant's Motion is hereby DENIED.

DONE AND ENTERED THIS \_\_\_\_\_ day of \_\_\_\_\_, 1994.

UNITED STATES DISTRICT JUDGE